

THIS IS THE BEGINNING OF ADMINISTRATIVE FINE CASE # 3367



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

RECEIVED  
FEDERAL ELECTION COMMISSION  
STOCK MARKET

2018 APR 23 PM 12: 20

April 23, 2018

MEMORANDUM

**SENSITIVE**

TO: The Commission

THROUGH: Alec Palmer *AP*  
Staff Director

FROM: Patricia C. Orrock *PCO*  
Chief Compliance Officer

Debbie Chacona *DC*  
Assistant Staff Director  
Reports Analysis Division

BY: *KDR* Kristin D. Roser/Ben Holly *BH*  
Reports Analysis Division  
Compliance Branch

SUBJECT: Reason To Believe Recommendation – 2018 12 Day Pre-Primary Report  
(Texas) for the Administrative Fine Program

Attached is a list of political committees and their treasurers who failed to timely file the 2018 12 Day Pre-Primary Report for the Texas Primary Election in accordance with 52 U.S.C. § 30104(a). The 12 Day Pre-Primary Report was due on February 22, 2018 and the Primary Election was held on March 6, 2018.

The committees listed on the attached RTB Circulation Report failed to file the election sensitive report by the required due date. Election sensitive reports filed more than four days prior to the election are considered late, and reports not filed more than four days prior to the election are considered not filed. In accordance with the schedule of civil money penalties for reports at 11 CFR § 111.43, these committees should be assessed the civil money penalties highlighted on the attached circulation report.

## **Recommendation**

1. Find reason to believe that the political committees and their treasurers, in their official capacity, listed on the RTB Circulation Report violated 52 U.S.C. § 30104(a) and make a preliminary determination that the civil money penalties would be the amounts indicated on the RTB Circulation Report.
2. Send the appropriate letters.

4/23/2018 9:56 AM

Federal Election Commission  
Reason to Believe Circulation Report  
2018 PRE-PRIMARY Election Sensitive 02/22/2018 AUTH (TX)

AF#	Committee ID	Committee Name	Candidate Name	Treasurer	Threshold	PV	Receipt Date	Days Late	LOA	RTB Penalty
3367	C00859110	DANNY NGUYEN FOR CONGRESS	DANNY QUOC NGUYEN	MARK KINGSTON	\$292,867	0	3/21/2018	Not Filed	\$140,500	\$7,088

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of )  
 )  
Reason To Believe Recommendation - 2018 )  
12 Day Pre-Primary Report (Texas) for the )  
Administrative Fine Program: )  
DANNY NGUYEN FOR CONGRESS, and ) AF# 3367  
KINGSTON, MARK MR. as treasurer: )

CERTIFICATION

I, Dayna C. Brown, Secretary and Clerk of the Federal Election Commission, do hereby certify that on April 26, 2018 the Commission took the following actions on the Reason To Believe Recommendation - 2018 12 Day Pre-Primary Report (Texas) for the Administrative Fine Program as recommended in the Reports Analysis Division's Memorandum dated April 23, 2018, on the following committees:

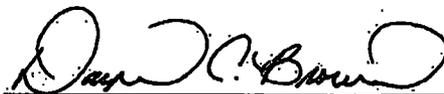
AF#3367 Decided by a vote of 4-0 to: (1) find reason to believe that DANNY NGUYEN FOR CONGRESS, and KINGSTON, MARK MR. in his official capacity as treasurer, violated 52 U.S.C. 30104(a) and make a preliminary determination that the civil money penalty would be the amount indicated on the report; (2) send the appropriate letter. Commissioners Hunter, Petersen, Walther, and Weintraub voted affirmatively for the decision.

Federal Election Commission  
Certification for Administrative Fines  
April 26, 2018

Page 2

Attest:

April 27, 2018  
Date

  
Dayna C. Brown  
Secretary and Clerk of the Commission



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

April 27, 2018

Mark Kingston, in official capacity as Treasurer  
Danny Nguyen for Congress  
16107 Kensington Dr., #260  
Sugar Land, TX 77479

C00659110  
AF#: 3367

Dear Mr. Kingston:

The Federal Election Campaign Act of 1971, as amended ("the Act"), requires that your committee file a 12 Day Pre-Primary Report of Receipts and Disbursements in any calendar year during which there is a regularly scheduled election for which the candidate is seeking election or nomination for election. This report, covering the period January 1, 2018 through February 14, 2018, shall be filed no later than February 22, 2018. 52 U.S.C. § 30104(a). Because records at the Commission indicate that you did not file this report prior to four (4) days before the election, the report is considered not filed for the purpose of calculating the civil money penalty.

The Act permits the FEC to impose civil money penalties for violations of the reporting requirements of 52 U.S.C. § 30104(a). 52 U.S.C. § 30109g(a)(4). On April 26, 2018, the FEC found that there is reason to believe ("RTB") that Danny Nguyen for Congress and you, in your official capacity as treasurer, violated 52 U.S.C. § 30104(a) by failing to file timely this report on or before February 22, 2018. Based on the FEC's schedules of civil money penalties at 11 C.F.R. § 111.43, the amount of your civil money penalty calculated at the RTB stage is \$7,088. Please see the attached copy of the Commission's administrative fine regulations at 11 C.F.R. §§ 111.30-111.46. Attachment 1. The Commission's website contains further information about how the administrative fine program works and how the fines are calculated. See <http://www.fec.gov/af/af.shtml>. 11 C.F.R. § 111.34. Your payment of \$7,088 is due within forty (40) days of the finding, or by June 5, 2018, and is based on these factors:

Election Sensitivity of Report: Election Sensitive  
Level of Activity: \$140,500  
Number of Days Late: Not Filed (reports not filed prior to four (4) days before the Primary Election held on March 6, 2018 are considered not filed for the purpose of calculating the penalty)  
Number of Previous Civil Money Penalties Assessed: 0

At this juncture, the following courses of action are available to you:

**1. If You Choose to Challenge the RTB Finding and/or Civil Money Penalty**

If you should decide to challenge the RTB finding and/or calculated civil money penalty, you must submit a written response to the FEC's Office of Administrative Review, 1050 First Street, NE, Washington, DC 20002. Your response must include the AF# (found at the top of page 1 under your committee's identification number) and be received within forty (40) days of the Commission's RTB finding, or June 5, 2018. 11 CFR § 111.35(a). Your written response must include the reason(s) why you are challenging the RTB finding and/or calculated civil money penalty, and must include the factual basis supporting the reason(s) and supporting documentation. The FEC strongly encourages that documents be submitted in the form of affidavits or declarations. 11 CFR § 111.36(c).

The FEC will only consider challenges that are based on at least one of three grounds: (1) a factual error in the RTB finding; (2) miscalculation of the calculated civil money penalty by the FEC; or (3) your demonstrated use of best efforts to file in a timely manner when prevented from doing so by reasonably unforeseen circumstances that were beyond your control. 11 CFR § 111.35(b). In order for a challenge to be considered on the basis of best efforts, you must have filed the required report no later than 24 hours after the end of these reasonably unforeseen circumstances. *Id.* Examples of circumstances that will be considered reasonably unforeseen and beyond your control include, but are not limited to: (1) a failure of Commission computers or Commission-provided software despite your seeking technical assistance from Commission personnel and resources; (2) a widespread disruption of information transmissions over the Internet that is not caused by a failure of the Commission's or your computer systems or Internet service provider; and (3) severe weather or other disaster-related incident. 11 CFR § 111.35(c). Examples of circumstances that will not be considered reasonably unforeseen and beyond your control include, but are not limited to: (1) negligence; (2) delays caused by vendors or contractors; (3) treasurer and staff illness, inexperience or unavailability; (4) committee computer, software, or Internet service provider failures; (5) failure to know filing dates; and (6) failure to use filing software properly. 11 CFR § 111.35(d).

The "failure to raise an argument in a timely fashion during the administrative process shall be deemed a waiver" of your right to present such argument in a petition to the U.S. District Court under 52 U.S.C. § 30109. 11 CFR § 111.38.

If you intend to be represented by counsel, please advise the Office of Administrative Review. You should provide, in writing, the name, address and telephone number of your counsel and authorize counsel to receive notifications and communications relating to this challenge and imposition of the calculated civil money penalty.

**2. If You Choose Not to Pay the Civil Money Penalty and Not to Submit a Challenge**

If you do not pay the calculated civil money penalty and do not submit a written response, the FEC will assume that the preceding factual allegations are true and make a final determination that Danny Nguyen for Congress and you, in your official capacity as treasurer, violated 52 U.S.C. § 30104(a) and assess a civil money penalty.

Unpaid civil money penalties assessed through the Administrative Fine regulations will be subject to the Debt Collection Act of 1982 ("DCA"), as amended by the Debt Collection

Improvement Act of 1996, 31 U.S.C. § 3701 *et seq.* The FEC may take any and all appropriate action authorized and required by the DCA, as amended, including transfer to the U.S. Department of the Treasury for collection. 11 CFR § 111.51(a)(2).

**3. If You Choose to Pay the Civil Money Penalty**

If you should decide to pay the calculated civil money penalty, follow the payment instructions on page 4 of this letter. Upon receipt of your payment, the FEC will send you a final determination letter.

**NOTICE REGARDING PARTIAL PAYMENTS AND SETTLEMENT OFFERS**

**4. Partial Payments**

If you make a payment in an amount less than the calculated civil money penalty, the amount of your partial payment will be credited towards the full civil money penalty that the Commission assesses upon making a final determination.

**5. Settlement Offers**

Any offer to settle or compromise a debt owed to the Commission, including a payment in an amount less than the calculated civil money penalty assessed or any restrictive endorsements contained on your check or money order or proposed in correspondence transmitted with your check or money order, will be rejected. Acceptance and deposit or cashing of such a restricted payment does not constitute acceptance of the settlement offer. Payments containing restrictive endorsements will be deposited and treated as a partial payment towards the civil money penalty that the Commission assesses upon making a final determination. All unpaid civil money penalty amounts remaining will be subject to the debt collection procedures set forth in Section 2, above.

This matter was generated based on information ascertained by the FEC in the normal course of carrying out its supervisory responsibilities. 52 U.S.C. § 30109(a)(2). Unless you notify the FEC in writing that you wish the matter to be made public, it will remain confidential in accordance with 52 U.S.C. § 30109(a)(4)(B) and 30109(a)(12)(A) until it is placed on the public record at the conclusion of this matter in accordance with 11 CFR § 111.42.

As noted earlier, you may obtain additional information on the FEC's administrative fine program, including the final regulations, on the FEC's website at <http://www.fec.gov/af/af.shtml>. If you have questions regarding the payment of the calculated civil money penalty, please contact Ben Holly in the Reports Analysis Division at our toll free number (800) 424-9530 (at the prompt press 5) or (202) 694-1130. If you have questions regarding the submission of a challenge, please contact the Office of Administrative Review at our toll free number (800) 424-9530 (press 0, then ext. 1660) or (202) 694-1660.

On behalf of the Commission,



Caroline C. Hunter  
Chair

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**ADMINISTRATIVE FINE REMITTANCE & PAYMENT INSTRUCTIONS**

In accordance with the schedule of penalties at 11 CFR § 111.43, the amount of your civil money penalty calculated at RTB is \$7,088 for the 2018 Pre-Primary Report.

You may remit payment by ACH withdrawal from your bank account, or by debit or credit card through Pay.gov, the federal government's secure portal for online collections. Visit [www.fec.gov/af/pay.shtml](http://www.fec.gov/af/pay.shtml) to be directed to Pay.gov's Administrative Fine Program Payment form.

This penalty may also be paid by check or money order, made payable to the Federal Election Commission. It should be sent by mail to:

Federal Election Commission  
P.O. Box 979058  
St. Louis, MO 63197-9000

If you choose to send your payment by courier or overnight delivery, please send to:

U.S. Bank - Government Lockbox  
FEC #979058  
1005 Convention Plaza  
Attn: Government Lockbox, SL-MO-C2GL  
St. Louis, MO 63101

**PAYMENTS BY PERSONAL CHECK**

Personal checks will be converted into electronic funds transfers (EFTS). Your account will be electronically debited for the amount on your check, usually within 24 hours, and the debit will appear on your regular statement. We will destroy your original check and keep a copy of it. In case the EFT cannot be processed for technical reasons, you authorize us to process the copy in lieu of the original check. Should the EFT not be completed because of insufficient funds, we may try to make the transfer twice.

**PLEASE DETACH AND RETURN THE PORTION BELOW WITH YOUR PAYMENT**

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FOR: Danny Nguyen for Congress

FEC ID#: C00659110

AF#: 3367

PAYMENT DUE DATE: June 5, 2018

PAYMENT AMOUNT DUE: \$7,088

May 23, 2018

To: FEC Office of Administrative Review  
1050 First Street, NE  
Washington, DC 20002  
Committee ID: C00659110  
AF#: 3367

Subject: Regarding the failure to report on a timely basis

We are asking for forgiveness regarding the penalty associated with the failure to report according to compliance requirements. During the reporting period several circumstances occurred that effected the accountable filing of the reports. Supporting documentation of the circumstances is attached along with this summary.

- 1) Death of Mark Kingston's Mother-in-Law – During the week of Jan 15, 2018 Mr. Kingston's Mother-in-Law was admitted to the hospital

The funeral was held Feb 23, 2018. Unfortunately, this resulted in Mr. Kingston focusing on his family, the funeral and then subsequent needs of the family after the funeral.

- 2) Concurrently, Mr. Kingston was facing his own significant medical issues which he was attempting to delay care for until after the election and of course the issue related to his Mother-in-Law.

The results, of the above circumstances, was a failure to stay current with the reporting requirements. Our hope is that you will consider these circumstances when determining whether to forgive the assessed penalty.

Sincerely,



Lan Nguyen  
Danny Nguyen for Congress Committee  
16107 Kensington Dr. #260  
Sugar Land, TX 77479



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

June 28, 2018

**REVIEWING OFFICER RECOMMENDATION  
OFFICE OF ADMINISTRATIVE REVIEW ("OAR")**

AF# 3367 – Danny Nguyen for Congress and Mark Kingston, in his official capacity as Treasurer (C00659110)

**Summary of Recommendation**

Terminate the proceedings in accordance with 11 C.F.R. § 111.37(b) and close the file.

**Reason-to-Believe Background**

The 2018 Texas Pre-Primary Report was due on February 22, 2018. The Committee filed the report on March 21, 2018, 27 days late. The report is election sensitive and was not filed prior to four days before the Texas Primary Election held on March 6, 2018; therefore, the report is considered not filed. 11 C.F.R. §§ 111.43(d)(1) and (e)(2).

On April 26, 2018, the Commission found reason to believe ("RTB") that the respondents violated 52 U.S.C. § 30104(a) for failing to timely file the 2018 Texas Pre-Primary Report and made a preliminary determination that the civil money penalty was \$7,088 based on the schedule of penalties at 11 C.F.R. § 111.43. A letter was mailed to the respondents' address of record from the Reports Analysis Division ("RAD") on April 30, 2018 to notify them of the Commission's RTB finding and civil money penalty.

**Legal Requirements**

The Federal Election Campaign Act ("Act") states that the treasurer of a principal campaign committee shall file a pre-election report no later than 12 days before any primary election in which the candidate seeks election. 52 U.S.C. § 30104(a)(2)(A)(i) and 11 C.F.R. § 104.5(a)(2)(i). Reports electronically filed must be received and validated at or before 11:59 pm Eastern Standard/Daylight Time on the filing deadline to be timely filed. 11 C.F.R. §§ 100.19(c) and 104.5(e). The treasurer shall be personally responsible for the timely filing of reports. 11 C.F.R. § 104.14(d).

**Summary of Respondents' Challenge**

On June 11, 2018, the Commission received the written response ("challenge") from a Committee representative requesting that the Commission reconsider the penalty. The challenge

explains that during the weeks leading up to the filing deadline, the Treasurer's mother-in-law was hospitalized and passed away. In addition, the Treasurer faced his own medical issues requiring multiple exams and surgery. As a result, the Treasurer "fail[ed] to stay current with reporting requirements."

### **Analysis**

The 2018 Texas Pre-Primary Report was due on February 22, 2018. Reports Analysis Division ("RAD") telecoms (written records of telephone conversations) indicate that the Committee representative was notified of the missing report during a conversation with a RAD Analyst on March 13, 2018, and then reminded again during conversations on March 19 and 20, 2018. On March 21, 2018, the Committee filed the 2018 Texas Pre-Primary Report, 27 days late.

The Reviewing Officer is sympathetic to the Treasurer's personal circumstances presented in the challenge. However, the Reviewing Officer notes that a committee's treasurer shall be personally responsible for the timely filing of reports. 11 C.F.R. § 104.14(d). Moreover, failure to know filing dates and unavailability of a committee's treasurer are both included at 11 C.F.R. § 111.35(d) as examples of a circumstances that will not be considered reasonably unforeseen and beyond the respondents' control.

However, further analysis of Commission records indicates that the Commission did not treat the respondents in accordance with its normal course of business. According to the Assistant Staff Director of RAD, a technical error resulted in the Committee not being appropriately linked to the 2018 Texas Primary Election in the Commission's database. Therefore, the respondents did not receive the standard pre- and post-filing deadline notifications for the 2018 Texas Pre-Primary Report. The Commission's Information Division did not include the Committee in its January 30, 2018 email distribution of the 2018 Texas Pre-Primary Report Notice. In addition, the Commission's Electronic Filing Office did not include the Committee in its February 23, 2018 email distribution of the 2018 Texas Pre-Primary Report late filing notification. Further, RAD did not include the Committee in its February 23, 2018 distribution of non-filer notifications for the 2018 Texas Pre-Primary Report.

Had these notifications been appropriately sent to the email addresses disclosed on the Committee's Statement of Organization, the Treasurer and the Candidate would have been notified of the 2018 Texas Pre-Primary Report filing requirement prior to the deadline and also notified of the failure to file the report the day following the filing deadline. The Reviewing Officer recognizes the Committee may have been able to timely file the report if it was treated according to the Commission's normal course of business. Therefore, the Reviewing Officer recommends that the Commission take no further action and close the file.

### **OAR Recommendations**

- 1) Terminate the proceedings in AF# 3367 that Danny Nguyen for Congress and Mark Kingston, in his official capacity as Treasurer, violated 52 U.S.C. § 30104(a) and close the file; and
- 2) Send the appropriate letter.

### **Attachments**

- Attachment 1 –
- Attachment 2 –
- Attachment 3 –
- Attachment 4 –
- Attachment 5 – Declaration from RAD
- Attachment 6 – Declaration from OAR

## DECLARATION OF KRISTIN D. ROSER

1. I am the Chief of the Compliance Branch for the Reports Analysis Division of the Federal Election Commission ("Commission"). In my capacity as Chief of the Compliance Branch, I oversee the initial processing of the Administrative Fine Program. I make this declaration based on my personal knowledge and, if called upon as a witness, could and would testify competently to the following matters.
2. It is the practice of the Reports Analysis Division to document all calls to or from committees regarding a letter they receive or any questions relating to the FECFile software or administrative fine regulations, including due dates of reports and filing requirements.
3. I hereby certify that documents identified herein are true and accurate copies of the following sent by the Commission to Danny Nguyen for Congress:
  - A) Reason-to-Believe Letter, dated April 27, 2018, referencing the 2018 12 Day Pre-Primary Report (Texas) (sent via overnight mail to the address of record).
4. I hereby certify that I have searched the Commission's public records and find that Danny Nguyen for Congress filed the 2018 12 Day Pre-Primary Report (Texas) with the Commission on March 21, 2018.
5. Pursuant to 28 U.S.C. 1746, I declare under penalty of perjury that the foregoing is true and correct and that all relevant telecoms for the matter have been provided. This declaration was executed at Washington, D.C. on the 13<sup>th</sup> day of June, 2018.

*Kristin Roser*

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Kristin D. Roser  
Chief, Compliance Branch  
Reports Analysis Division  
Federal Election Commission

### DECLARATION OF RHIANNON MAGRUDER

- 1) I am the Reviewing Officer in the Office of Administrative Review for the Federal Election Commission ("Commission"). In my capacity as Reviewing Officer, I conduct research with respect to all challenges submitted in accordance with the Administrative Fine program.
- 2) A principal campaign committee shall file a pre-election report no later than 12 days before any primary election in which the candidate seeks election. Reports filed electronically must be received and validated at or before 11:59 pm, Eastern Standard/Daylight Time on February 22, 2008 for the 2018 Texas Pre-Primary Report to be timely filed.
- 3) I hereby certify that I have searched the Commission's public records and that the documents identified herein are the true and accurate copies of:
  - a) Cover page of the 2018 Pre-Primary Report filed by Danny Nguyen for Congress and Mark Kingston, in his official capacity as Treasurer. The report was electronically filed on March 21, 2018.
- 4) Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed at Washington, D.C. on the 28th day of June, 2018.

Rhiannon Magruder  
Rhiannon Magruder  
Reviewing Officer  
Office of Administrative Review  
Federal Election Commission

FEC FORM 3

REPORT OF RECEIPTS AND DISBURSEMENTS

For An Authorized Committee

Office Use Only

1. NAME OF COMMITTEE (in full) TYPE OR PRINT Example: If typing, type over the lines.

12FE4M5

Danny Nguyen For Congress

ADDRESS (number and street) 16107 Kensington Dr.

#260

Check if different than previously reported. (ACC)

Sugar Land TX 77479

CITY STATE ZIP CODE

2. FEC IDENTIFICATION NUMBER

C00659110

3. IS THIS REPORT NEW OR AMENDED

STATE DISTRICT TX 22

4. TYPE OF REPORT (Choose One)

(a) Quarterly Reports:

- April 15 Quarterly Report (Q1)
July 15 Quarterly Report (Q2)
October 15 Quarterly Report (Q3)
January 31 Year-End Report (YE)

Termination Report (TER)

(b) 12-Day PRE-Election Report for the:

- Primary (12P) General (12G) Runoff (12R)
Convention (12C) Special (12S)

Election on 03 / 06 / 2018 in the State of TX

(c) 30-Day POST-Election Report for the:

- General (30G) Runoff (30R) Special (30S)

Election on / / in the State of

5. Covering Period 01 / 01 / 2018 through 02 / 14 / 2018

I certify that I have examined this Report and to the best of my knowledge and belief it is true, correct and complete.

KINGSTON, MARK, ..

Type or Print Name of Treasurer

Signature of Treasurer KINGSTON, MARK, ..

[Electronically Filed]

Date 03 / 21 / 2018

NOTE: Submission of false, erroneous, or incomplete information may subject the person signing this Report to the penalties of 52 U.S.C. §30109.

Table with 10 columns and 1 row for Office Use Only.



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

June 28, 2018

Mark Kingston, in official capacity as Treasurer  
Danny Nguyen for Congress  
16107 Kensington Dr., #260  
Sugar Land, TX 77479

C00659110  
AF#: 3367

Dear Mr. Kingston::

On April 26, 2018, the Commission found reason to believe ("RTB") that Danny Nguyen for Congress and you, in your official capacity as treasurer, violated 52 U.S.C. § 30104(a) for failing to timely file the 2018 Pre-Primary Report and made a preliminary determination that the civil money penalty was \$7,088 based on the schedule of penalties at 11 C.F.R. § 111.43.

After reviewing your written response and any supplemental information submitted by you and Commission staff, the Reviewing Officer has recommended that the Commission terminate the proceedings and close the file. A copy of the Reviewing Officer's recommendation is attached.

You may file with the Commission Secretary a written response to the recommendation within 10 days of the date of this letter. Your written response should be sent to the Commission Secretary, 999 E Street, NW, Washington, DC 20463 or via facsimile (202-208-3333). Please include the AF # in your response. Your response may not raise any arguments not raised in your original written response or not directly responsive to the Reviewing Officer's recommendation. 11 C.F.R. § 111.36(f). The Commission will then make a final determination in this matter.

Please contact me at the toll free number 800-424-9530 (press 0, then press 1660) or 202-694-1660 if you have any questions.

Sincerely,

*Rhiannon Magruder*  
Rhiannon Magruder  
Reviewing Officer  
Office of Administrative Review



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

RECEIVED  
FEDERAL ELECTION COMMISSION  
SECRETARIA

2018 JUL 18 AM 9:39

**SENSITIVE**

July 18, 2018

**MEMORANDUM**

To: The Commission

Through: Alec Palmer *AP*  
Staff Director

From: Patricia C. Orrock *PCO*  
Chief Compliance Officer

Rhiannon Magruder *RM*  
Reviewing Officer  
Office of Administrative Review

Subject: Final Determination Recommendation in AF# 3367 – Danny Nguyen for Congress and Mark Kingston, in his official capacity as Treasurer (C00659110)

On April 26, 2018, the Commission found reason to believe (“RTB”) that the respondents violated 52 U.S.C. § 30104(a) for failing to timely file the 2018 Texas Pre-Primary Report. The Commission made a preliminary determination that the civil money penalty was \$7,088 based on the schedule of penalties at 11 C.F.R. § 111.43.

On June 11, 2018, the Commission received their written response (“challenge”). After reviewing the challenge, the Reviewing Officer Recommendation (“ROR”) dated June 26, 2018 was forwarded to the Commission, a copy was forwarded to the respondents, and is hereby incorporated by reference. The Reviewing Officer recommended that the Commission take no further action and close the file.

Within 10 days of transmittal of the recommendation, they may file a written response with the Commission Secretary which may not raise any arguments not raised in their challenge or not directly responsive to the ROR. 11 C.F.R. § 111.36(f). To date, a response has not been received.

**OAR Recommendations**

- 1) Take no further action in AF# 3367 that Danny Nguyen for Congress and Mark Kingston, in his official capacity as Treasurer, violated 52 U.S.C. § 30104(a) and close the file; and
- 2) Send the appropriate letter.

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of )  
 ) AF 3367  
Final Determination Recommendation: )  
Danny Nguyen for Congress and Mark )  
Kingston, in his official capacity as )  
Treasurer (C00659110) )

CERTIFICATION

I, Dayna C. Brown, Secretary and Clerk of the Federal Election Commission, do hereby certify that on July 26, 2018, the Commission decided by a vote of 4-0 to take the following actions in AF 3367:

1. Take no further action in AF# 3367 that Danny Nguyen for Congress and Mark Kingston, in his official capacity as Treasurer, violated 52 U.S.C. § 30104(a) and close the file.
2. Send the appropriate letter.

Commissioners Hunter, Petersen, Walther, and Weintraub voted affirmatively for the decision.

Attest:

July 26, 2018  
Date

Dayna C. Brown  
Dayna C. Brown  
Secretary and Clerk of the Commission



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

August 1, 2018

Mark Kingston, in official capacity as Treasurer  
Danny Nguyen for Congress  
16107 Kensington Dr., #260  
Sugar Land, TX 77479

C00659110  
AF#: 3367

Dear Mr. Kingston:

On April 26, 2018, the Commission found reason to believe ("RTB") that Danny Nguyen for Congress and you, in your official capacity as treasurer, violated 52 U.S.C. § 30104(a) for failing to timely file the 2018 Pre-Primary Report and made a preliminary determination that the civil money penalty was \$7,088 based on the schedule of penalties at 11 C.F.R. § 111.43. By letter dated April 30, 2018, the Commission sent notification of the RTB finding that included a civil money penalty calculated at RTB of \$7,088 in accordance with the schedule of penalties at 11 C.F.R. § 111.43. On June 11, 2018, the Office of Administrative Review received your written response challenging the RTB finding.

The Reviewing Officer reviewed the Commission's RTB finding with its supporting documentation and your written response. Based on this review, the Reviewing Officer recommended that the Commission take no further action and close the file. The Reviewing Officer Recommendation was sent to you on June 28, 2018.

On July 26, 2018, the Commission adopted the Reviewing Officer's recommendation to take no further action with respect to 52 U.S.C. § 30104(a) and close the file. A copy of the Final Determination Recommendation is attached.

The confidentiality provisions at 52 U.S.C. § 30109(a)(12) no longer apply and this matter is now public. Pursuant to 11 C.F.R. §§ 111.42(b) and 111.20(c), the file will be placed on the public record within 30 days from the date of this notification.

If you have any questions regarding this matter, please contact Rhiannon Magruder on our toll free number (800) 424-9530 (press 0, then ext. 1660) or (202) 694-1158.

On behalf of the Commission,

*Carole C. Hunter*  
Caroline Hunter  
Chair

Attachment



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

RECEIVED  
FEDERAL ELECTION COMMISSION  
SECRETARIAT

2018 JUL 18 AM 9:39

**SENSITIVE**

July 18, 2018

**MEMORANDUM**

To: The Commission

Through: Alec Palmer *AP*  
Staff Director

From: Patricia C. Orrock *PCO*  
Chief Compliance Officer

Rhiannon Magruder *RM*  
Reviewing Officer  
Office of Administrative Review

Subject: Final Determination Recommendation in AF# 3367 – Danny Nguyen for Congress and Mark Kingston, in his official capacity as Treasurer (C00659110)

On April 26, 2018, the Commission found reason to believe (“RTB”) that the respondents violated 52 U.S.C. § 30104(a) for failing to timely file the 2018 Texas Pre-Primary Report. The Commission made a preliminary determination that the civil money penalty was \$7,088 based on the schedule of penalties at 11 C.F.R. § 111.43.

On June 11, 2018, the Commission received their written response (“challenge”). After reviewing the challenge, the Reviewing Officer Recommendation (“ROR”) dated June 26, 2018 was forwarded to the Commission, a copy was forwarded to the respondents, and is hereby incorporated by reference. The Reviewing Officer recommended that the Commission take no further action and close the file.

Within 10 days of transmittal of the recommendation, they may file a written response with the Commission Secretary which may not raise any arguments not raised in their challenge or not directly responsive to the ROR. 11 C.F.R. § 111.36(f). To date, a response has not been received.

**OAR Recommendations**

- 1) Take no further action in AF# 3367 that Danny Nguyen for Congress and Mark Kingston, in his official capacity as Treasurer, violated 52 U.S.C. § 30104(a) and close the file; and
- 2) Send the appropriate letter.

THIS IS THE END OF ADMINISTRATIVE FINE CASE # 3347